

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to amend Chapter 21, “Division Responsibilities,” and Chapter 25, “Housing Fund,” Iowa Administrative Code.

The proposed amendments remove requirements related to the HOME Housing Fund. In January of 2010, the Governor transferred the HOME Housing Fund to the Iowa Finance Authority by executive order. Because the Department no longer administers the HOME program, the proposed amendments delete references to and any programmatic details regarding the HOME Housing Fund. The Iowa Finance Authority has adopted rules to administer the program (265—Chapter 39).

The Department will receive public comments concerning the proposed amendments until 4:30 p.m. on September 28, 2010. Interested persons may submit written comments to Leslie Leager, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; E-mail [Leslie.Leager@iowa.gov](mailto:Leslie.Leager@iowa.gov); or telephone (515)725-3071.

The Iowa Department of Economic Development will hold a public hearing Tuesday, September 28, 2010, from 3 to 4 p.m. The public hearing will be held in the Northwest First Floor Conference Room at the Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa.

These amendments are intended to implement Iowa Code section 15.108.

The following amendments are proposed.

ITEM 1. Amend subrule 21.2(2) as follows:

**21.2(2) *Investment management.*** Investment management staff provide compliance and monitoring activities for programs including, but not limited to, the community development block grant (CDBG) program, community development fund (CDF) program, emergency shelter grants program (ESGP), homeless shelter operation grants (HSOG) program, ~~HOME program~~, and revitalization assistance for community improvement (RACI).

ITEM 2. Amend subrule 21.2(4) as follows:

**21.2(4) *Infrastructure (project initiative and technical assistance).*** Functions performed in this category include, but are not limited to, administration of the following programs: CDBG, community facilities and services, ESGP, and HSOG, ~~and HOME~~.

ITEM 3. Amend rule 261—25.1(15) as follows:

**261—25.1(15) Purpose.** The primary purpose of the housing fund, made up of federal CDBG ~~and HOME~~ funds, is to ~~expand or~~ retain the supply of decent and affordable housing for low- and moderate-income Iowans.

ITEM 4. Amend rule 261—25.2(15) as follows:

**261—25.2(15) Definitions.** When used in this chapter, unless the context otherwise requires:

“*Activity*” means one or more specific owner-occupied housing rehabilitation activities, projects or programs assisted through the housing fund.

“*Administrative plan*” means a document that a housing fund recipient establishes that describes the operation of a funded activity in compliance with all state and federal requirements.

*“American Dream Downpayment Initiative (ADDI)”* means a program to be used for the purpose of making down payment and closing cost or acquisition assistance to low-income families who are first-time homebuyers for the purchase of single-family housing that will serve as the family’s principal residence.

*“CDBG”* means the community development block grant non-entitlement program, the grant program authorized by Title I of the Housing and Community Development Act of 1974, for counties and cities, except those designated by HUD as entitlement areas.

*“CHDO”* means community housing development organization, a nonprofit organization registered with the Iowa secretary of state and certified as such by IDED, pursuant to 24 CFR 92.2 (April 1, 1997).

*“Consolidated plan”* means the state’s housing and community development planning document and the annual action plan update approved by HUD.

*“Development subsidies”* means financial assistance provided to developers of newly constructed, single-family housing to address the added costs of constructing housing that is in compliance with the Iowa green communities criteria. In such cases, the total cost of development is likely to exceed the sales price or the appraised fair market value of the housing. Additional costs might include labor, materials and equipment; professional design and construction oversight costs; and required third-party energy efficiency verification and certification costs.

*“Displaced homemaker”* means an individual who (1) is an adult; (2) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

*“First-time homebuyer”* means an individual or an individual and the individual’s spouse who have not owned a home during the three-year period before the purchase of a home with HOME or ADDI assistance, except that an individual who is a displaced homemaker or single parent may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while a homemaker, owned a home with the individual’s spouse or resided in a home owned by a spouse; and an individual may not be excluded from consideration on the basis that the individual owns or owned, as a principal residence during the three-year period before purchase of a home with HOME assistance, a dwelling unit whose structure is (1) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations or (2) not in compliance with state, local or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

*“Gut rehabilitation”* means an activity or project that involves the total removal and replacement of all interior (nonstructural) systems, equipment, components or features of a multifamily structure, whereby the existing structure will be reduced down to the basic structure or exterior building shell (e.g., the foundation system; exterior walls; roofs; and interior structural components such as columns, beams, floors and structural bearing walls). “Gut rehabilitation” may also include structural or nonstructural modifications to the exterior of the structure.

*“HART”* means the housing application review team, a body of affordable housing funding agencies which meets to review housing proposals.

*“HOME”* means the HOME investment partnerships program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990.

*“Housing fund”* means the program implemented by this chapter and funded through the state’s annual HOME allocation from HUD and 25 percent of the state’s CDBG allocation from HUD.

*“HUD”* means the U.S. Department of Housing and Urban Development.

*“IDED”* means the Iowa department of economic development.

*“IFA”* means the Iowa finance authority.

*“Iowa green communities criteria”* means a set of rating factors, some optional and some mandatory, prepared by IDED and intended to promote public health, energy efficiency, water conservation, smart locations, operational savings and sustainable building practices.

*“Lead hazard reduction or abatement carrying costs”* means the additional costs incurred by lead professionals to ensure that target housing is lead-safe at the completion of rehabilitation. “Lead hazard reduction or abatement carrying costs” includes, but is not limited to, required notifications and reports,

lead hazard or abatement evaluations, revisions to project specifications to achieve lead safety, lead hazard reduction or abatement oversight, and clearance testing and final assessment.

~~“LIHTC” means low income housing tax credits and federal tax incentives created through the Tax Reform Act of 1986 and allocated through the Iowa finance authority for affordable rental housing development.~~

*“Local financial support”* means financial investment by the recipient through the use of the recipient’s own discretionary funds that are a permanent financial contribution or commitment applied to and related to the objectives of the housing activity or project assisted through the housing fund and that are used during the same time frame as the requested housing activity or project.

*“Local support”* means involvement, endorsement and investment by citizens, organizations and the governing body of the local government in which the housing project is located that promote the objectives of the housing activity or projects assisted through the housing fund.

~~“Net proceeds” means the amount determined by calculating the difference between the resale price and the amount of the outstanding principal loan balance owed plus any seller’s reasonable and customary closing costs associated with the resale.~~

~~“New construction rental units” means the on-site construction or erection of a building, or buildings, for the purpose of providing rental housing units. New construction rental units include conventional, on-site, stick-built construction and on-site erection or fabrication of manufactured housing units or components of units. New construction rental units also include the addition of any rental units outside the existing walls (the building envelope) of an existing building, or buildings, that are part of a rental rehabilitation, renovation or conversion project.~~

*“Program income”* means funds generated by a recipient or subrecipient from the use of CDBG or HOME funds.

~~“Reasonable and customary closing costs” means:~~

~~1. Seller’s reasonable and customary closing costs incurred include, but are not limited to: abstract updating, title search fees, deed preparation fees, bringing current the seller’s county taxes, and real estate commission fees. Ineligible costs include, but are not limited to: lender discount points, allowances, inspection fees, and buyer closing costs.~~

~~2. Buyer’s reasonable and customary closing costs include, but are not limited to: lender origination fees, credit report fees, fees for the title evidence or title opinion, fees for recording and filing of legal documents, attorneys’ fees, appraisal fees, and required inspection fees. Ineligible costs under this definition include, but are not limited to: prepayment of taxes, prepayment of insurance, and lender discount points.~~

*“Recaptured funds”* means housing fund moneys which are recouped by the recipient when the housing unit assisted by the housing fund home ownership dollars does not continue to be the principal residence of the assisted homebuyer owner for the full affordability period required by federal statute the program.

*“Recipient”* means the entity under contract with IDIED to receive housing funds and undertake the funded housing activity.

*“Repayment”* means housing fund moneys which the recipient must repay to IDIED because the funds were invested in a project or activity that is terminated before completion or were invested in a project or activity which failed to comply with federal requirements.

*“Single-family unit”* means one dwelling unit designated or constructed to serve only one household or family as the primary residence. Single-family units include a detached single unit, condominium unit, cooperative unit, or combined manufactured housing unit and lot.

*“Single parent”* means an individual who (1) is unmarried or is legally separated from a spouse and (2) is pregnant or has one or more minor children for whom the individual has custody or joint custody.

*“Technical services”* means all services that are necessary to carry out individual, scattered site activities including but not limited to: (1) conducting initial inspections, (2) work write-up or project specification development, (3) cost estimate preparation, (4) construction supervision associated with activities that do not require an architect or engineer, (5) lead hazard reduction or lead abatement need determination and oversight, (6) lead hazard reduction or abatement carrying costs, (7) temporary

relocation coordination, (8) financing costs such as security agreement preparation and recording or filing fees, (9) processing of individual applications for assistance, (10) income eligibility determination and verification, ~~(11) value determination (new construction) or after rehabilitation value determination (existing structures)~~, and ~~(12) (11)~~ project-specific environmental clearance processes.

*“Technical services provision”* means the cost to provide other individual housing project-related services such as: (1) financing costs (security agreement preparation, recording and filing fees), (2) processing individual applications for assistance, (3) income eligibility determination and verification, and (4) after rehabilitation value determination, and (5) project-specific environmental clearance.

ITEM 5. Amend rule 261—25.3(15) as follows:

**261—25.3(15) Eligible applicants.** Eligible applicants shall comply with all requirements in 261—23.5(15). Eligible applicants for housing fund assistance include all non-entitlement incorporated cities and all counties within the state of Iowa; nonprofit organizations; CHDOs; and for-profit corporations, partnerships and individuals.

1. Any eligible applicant may apply directly.
2. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

ITEM 6. Amend rule 261—25.4(15) as follows:

**261—25.4(15) Eligible activities Eligibility and forms of assistance.**

~~25.4(1) Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation), rental housing new construction, home ownership assistance (including development subsidies). The only eligible activity for the housing fund is owner-occupied housing rehabilitation, and other housing-related activities as may be deemed appropriate by IDED for low- to moderate-income households. Assisted housing may shall be single-family housing or multifamily housing and may be designed for occupancy by homeowners or tenants as their principal residence. For owner-occupied housing rehabilitation, assisted households shall meet income limits established by federal program requirements. All single-family housing receiving rehabilitation assistance shall be rehabilitated in accordance with any locally adopted building or housing codes, standards, and ordinances. If locally adopted and enforced building or housing codes do not exist, the Iowa Minimum Housing Rehabilitation Standards shall apply.~~

~~a. Assisted units shall be affordable.~~

~~(1) For rental activities, all assisted units shall rent at the lesser of the area fair market rents or a rent that does not exceed 30 percent of 65 percent of the area median family income and, for projects with five or more units, 20 percent of the assisted units shall rent at the lesser of the fair market rent or a rent that does not exceed 30 percent of 50 percent of the area median family income. Assisted units shall remain affordable for a specified period: 20 years for newly constructed units; 15 years for rehabilitated units receiving over \$40,000 per unit in assistance; 10 years for rehabilitated units receiving \$15,000 to \$40,000 per unit in assistance; and 5 years for projects receiving less than \$15,000 per unit.~~

~~(2) For tenant-based rental assistance, gross rents shall not exceed the jurisdiction’s applicable rent standard and shall be reasonable, based on rents charged for comparable, unassisted rental units.~~

~~(3) For home ownership assistance, the initial purchase price for newly constructed units or the after rehabilitation value for rehabilitated units shall not exceed 95 percent of the median purchase price as established by HUD mortgage limits for the same type of single-family housing in the area. Assisted units shall remain affordable through recapture or resale provisions for a specified period: 5 years for projects receiving less than \$15,000 in assistance per unit; 10 years for projects receiving \$15,000 to \$40,000 in assistance per unit; and 15 years for projects receiving over \$40,000 in assistance per unit.~~

~~(4) For owner-occupied housing rehabilitation, the after rehabilitation value of the rehabilitated unit shall not exceed 95 percent of the median purchase price as established by HUD mortgage limits for the same type of single-family housing in the area.~~

~~b. Assisted households shall meet income limits established by federal program requirements.~~

(1) For rental activities, all assisted units shall be rented to households with incomes at or below 80 percent of the area's median family income; at initial occupancy, 90 percent of the units shall be rented to households with incomes at or below 60 percent of the area's median family income and, for projects with five or more units, 20 percent of the units shall be rented initially to households with incomes at or below 50 percent of the area's median family income.

(2) For tenant-based rental assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted; 90 percent of the households served shall have incomes at or below 60 percent of the area's median family income.

(3) For home ownership assistance and owner-occupied rehabilitation, only households with incomes at or below 80 percent of the area median family income shall be assisted.

~~c. Property standards. All newly constructed housing (single-family and multifamily housing) shall be constructed in accordance with any locally adopted and enforced building codes, standards and ordinances. In the absence of locally adopted and enforced building codes, the requirements of the state building code shall apply.~~

(1) All rental activities involving rehabilitation shall be rehabilitated in accordance with any locally adopted and enforced building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the state building code shall apply.

(2) All single-family housing involving rehabilitation shall be rehabilitated in accordance with any locally adopted building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the most current version of Iowa's Minimum Housing Rehabilitation Standards shall apply (all communities with populations of 15,000 or less).

~~d. Iowa green communities criteria. All newly constructed housing (single-family and multifamily housing) and all multifamily rental activities involving gut rehabilitation shall meet the mandatory requirements of the Iowa green communities criteria. All other multifamily rental activities involving rehabilitation (that is, not gut rehabilitation) shall meet the applicable mandatory requirements of the Iowa green communities criteria regarding rehabilitation.~~

**25.4(2)** Eligible forms of IDED assistance to its recipients include grants, ~~interest-bearing loans,~~ non-interest-bearing loans, interest subsidies, deferred payment loans, forgivable loans or other forms of assistance as may be approved by IDED.

**25.4(3)** For all single-family housing renovation projects ~~or activities~~ assisting homeowners ~~or~~ homebuyers, the only form of housing fund assistance to the end beneficiary is a forgivable loan.

**25.4(4)** Special provisions for the American Dream Downpayment Initiative (ADDI). The purpose of the ADDI program is to provide down payment and closing cost or acquisition assistance for the purchase of a principal residence. This program is available only to low-income persons or households that are first-time homebuyers.

~~a. Applicant eligibility. Units of local government and nonprofit organizations may apply for ADDI funds.~~

~~b. Beneficiary requirements. Only first-time homebuyers (as defined in rule 261—25.2(15)) purchasing a principal residence and meeting income eligibility criteria may be the beneficiaries of ADDI assistance.~~

~~c. Eligible uses of funds. Only the purchase of single-family, single-unit housing may be assisted by the ADDI program and only in the following manner:~~

(1) As a down payment plus reasonable and customary closing costs on the purchase of a principal residence.

(2) As gap financing for the cost of acquisition of a principal residence for an eligible homebuyer.

~~d. Limitations on amounts of ADDI assistance.~~

(1) The per unit assistance is \$10,000.

(2) The maximum ADDI award per applicant is \$200,000.

~~e. ADDI program requirements. In addition to the housing fund program requirements stated within this chapter, the ADDI program requires specific federal regulations to be followed in the implementation of this program activity. Grant recipients must:~~

~~(1) Conduct targeted outreach to public housing tenants and families receiving rental assistance from public housing agencies to encourage low- and moderate-income (LMI) households to move from renting to home ownership.~~

~~(2) Ensure long-term affordability of all assisted units.~~

~~(3) Document income eligibility determination for all assisted units.~~

~~(4) Document that all assisted properties meet the property standards at 24 CFR 92.251.~~

~~(5) Require that all housing units assisted with ADDI funds meet the HUD maximum per unit subsidy level.~~

~~(6) Meet all applicable cross-cutting federal regulations included in the HOME statute, including but not limited to: federal regulations pertaining to nondiscrimination, fair housing practices, minority outreach, lead-safe housing regulations in assisted units constructed prior to January 1, 1978, and the Uniform Relocation Act (URA).~~

~~f. ADDI is considered as a separate home ownership assistance activity. ADDI funds may be used as a stand-alone activity or utilized in conjunction with another housing fund-eligible home ownership activity.~~

ITEM 7. Amend rule 261—25.5(15) as follows:

**261—25.5(15) Application procedure review.** All potential housing fund applicants are encouraged, but not required, to complete and submit a HART form describing the proposed housing activity prior to the submittal of a formal housing fund application. If the proposal is determined to be appropriate for housing fund assistance, IDED shall inform the applicant of the appropriate application procedure by mail.

**25.5(1)** Joint applications. HART forms shall be available upon request from IDED, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4825; and at [iowalifechanging.com/community](http://iowalifechanging.com/community).

**25.5(2)** HART forms are accepted year-round.

**25.5(3)** Applicants may request technical assistance from staff contacts in the preparation of housing fund applications.

*a.* If an applicant does not submit an application by the next application deadline, IDED will determine the proposal inactive and remove it from the HART files.

*b.* Upon the submission of a housing fund application, no additional staff assistance shall be provided during the review period.

**25.5(4)** Housing fund applications. Housing fund applications shall be reviewed through an annual competition. IDED reserves the right to withhold funding from the annual housing fund competitive cycle to compensate for insufficient numbers or quality of applications received; to ensure that IDED meets its 15 percent CHDO set aside from HOME funds; to add HOME funds to existing HOME awards within one year of the original award date; and to reallocate de-obligated or recaptured funds; and to fund projects that are consistent with Iowa green communities criteria. In the event that funds are withheld from the annual competitive cycle, IDED will entertain additional applications, requests for proposals, or other forms of requests as deemed appropriate by IDED.

**25.5(5)** Joint applications. For applicants requesting funding for both the housing fund and low-income housing tax credit (LIHTC) programs, the applicant may request application forms and related materials from the Iowa finance authority (IFA). IFA will make available an application package to a potential applicant. The applicant must submit the completed application, with required housing fund attachments, to IFA by the deadline established in the application package.

*a.* IDED and IFA shall appoint a joint review team to discuss and review applications for housing fund and LIHTC funds. Staff for each agency may communicate frequently regarding common projects. Information contained in each application may be shared with each agency.

*b.* IDED staff shall review applications for eligibility and for activity threshold requirements. The joint review team shall meet to compare and discuss each common project. Final award decisions regarding funding recommendations will be made in accordance with IFA's qualified allocation plan (scoring and set asides). Staff from each agency will make recommendations for funding to their respective decision makers. A decision by one agency does not bind the other agency to fund a project.

~~c.—An applicant for the housing fund must meet the threshold requirements outlined in rules 25.4(15) and 25.6(15) and subrule 25.7(3) in order to be considered for an award under this subrule.~~

ITEM 8. Amend rule 261—25.6(15) as follows:

**261—25.6(15) Minimum application requirements.** To be considered for housing fund assistance, an application shall meet the following threshold criteria:

**25.6(1)** The application shall propose ~~a housing activity~~ an owner-occupied housing rehabilitation program consistent with the housing fund purpose and eligibility requirements, sustainability and smart growth principles, and the state consolidated plan.

**25.6(2)** The application shall document the applicant's capacity to administer the proposed activity. Such documentation may include evidence of successful administration of prior housing activities. IDED reserves the right to deny funding to an applicant that has failed to comply with federal and state requirements in the administration of a previous project funded by IDED. Documentation of the ability of the applicant to provide technical services and of the availability of certified lead professionals and contractors ~~either trained in safe work practices or certified as abatement contractors~~ may also be required as applicable to the housing fund activity.

**25.6(3)** The application shall provide evidence of the need for the proposed activity, the potential impact of the proposed activity, consistency with sustainability and smart growth principles, and the feasibility of the proposed activity.

**25.6(4)** The application shall demonstrate local support for the proposed activity.

~~**25.6(5)** The application shall show that a need for housing fund assistance exists after all other financial resources have been identified and secured for the proposed activity.~~

~~**25.6(6)**~~ **25.6(5)** The application shall include a certification that the applicant will comply with all applicable state and federal laws and regulations.

**25.6(7)** An application for a project located in a locally designated participating jurisdiction (PJ) must show evidence of a financial commitment from the local PJ at least equal to 25 percent of the total IDED HOME funds requested. Sources of a local PJ financial commitment could include one or more of the following: HOME, CDBG, TIF, tax abatement, or general funds. This requirement is waived for awards made by the department during federal HOME program year 2010 (October 1, 2009—September 30, 2010).

**25.6(8)** An application for a home ownership assistance activity must indicate that recipients will require the beneficiaries of their home ownership assistance activity to use a principal mortgage loan product that meets the following criteria:

~~a.—With the exception of Habitat for Humanity principal mortgage loan products, the principal mortgage loan must be the only repayable loan in all individual home ownership assistance projects.~~

~~b.—The housing fund assistance may be recorded in junior position to the principal mortgage loan, but must be recorded in senior position to any and all other funding in all home ownership assistance projects. Recipients of housing fund home ownership assistance activities must maintain their assistance security agreements in the above-stated recording position throughout the applicable period of affordability and will not be allowed to subordinate the required recording position to any other forms of assistance, such as home equity loans.~~

~~c.—Any mortgage lending entity's principal mortgage loan products may be used provided they meet all of the following minimum requirements:~~

~~(1) Loan interest rates may be no higher than four percentage points above the federal prime interest rate at the time of loan closing;~~

~~(2) Loan terms will include an 80 percent or higher loan-to-value ratio;~~

~~(3) No less than a 15-year, fully amortized, fixed-rate mortgage may be used; and~~

~~(4) No adjustable rate mortgages or balloon payment types of mortgages will be allowed.~~

~~d.—Recipients are encouraged but not required to have the beneficiaries of their home ownership assistance activity utilize a principal mortgage loan product offered by one of the following: Iowa Finance Authority; USDA Rural Development; Federal Home Loan Bank; HUD (including FHA and VA); Habitat for Humanity; Fannie Mae; or Freddie Mac.~~

~~25.6(9)~~ An application for a home ownership assistance activity must stipulate that home ownership assistance is for first-time homebuyers only, and that the assisted unit will remain as the assisted homebuyer's principal residence throughout the required period of affordability.

ITEM 9. Amend rule 261—25.7(15) as follows:

**261—25.7(15) Application review criteria.** IDED shall evaluate applications and make funding decisions based on general activity criteria, need, impact, sustainability and ~~smart growth principles,~~ feasibility, and activity administration based upon the specific type of activity undertaken. ~~The activity criteria shall be a part of the application.~~ A workshop will be held at least 60 days prior to the application deadline to provide information, materials, and technical assistance to potential applicants.

~~25.7(1)~~ As applicable, the review criteria for home ownership assistance applications shall include the following:

~~a. General criteria:~~

- ~~1. Activity objectives.~~
- ~~2. Total number of units.~~
- ~~3. Activities and cost estimates.~~
- ~~4. If new construction, availability of necessary infrastructure and utilities.~~
- ~~5. Form(s) of assistance.~~
- ~~6. Type(s) of assistance (e.g., mortgage buy-down, development subsidy, down payment, closing costs, rehabilitation, and combinations thereof).~~
- ~~7. Median purchase price for single-family housing in the community.~~
- ~~8. Initial purchase price or after rehabilitation value per assisted unit limitation.~~
- ~~9. Mortgage lender participation documentation and the current underwriting standards.~~
- ~~10. Methodology to determine maximum amount of conventional financing affordable to buyer.~~
- ~~11. Selection criteria for participants and their access to the proposed activity.~~
- ~~12. Methodology to ensure that the property will be the buyer's principal residence throughout the period of affordability.~~
- ~~13. Assurance of compliance with HUD lead-safe housing regulations as applicable.~~
- ~~14. Compliance with the most current version of Iowa's Minimum Housing Rehabilitation Standards, local standards, codes, and ordinances, or the state building code, as each may be applicable.~~
- ~~15. Activity time line.~~

~~b. Need, impact and feasibility criteria:~~

- ~~1. Number and percentage of low- and moderate-income persons in the applicant community.~~
- ~~2. Evidence and documentation of need for the activity.~~
- ~~3. Percentage of need to be met through the activity.~~
- ~~4. Reasons mortgage applications have been denied by local lenders.~~
- ~~5. Housing costs, housing supply, condition of available housing, and vacancy rates.~~
- ~~6. If acquisition for new construction, documentation of need for new units.~~
- ~~7. Recent or current housing improvement activities.~~
- ~~8. Description of current and ongoing comprehensive community development efforts.~~
- ~~9. Publicity promoting the proposed activity and identification of local partners.~~
- ~~10. Number of potential participants and the method by which they were identified.~~
- ~~11. New businesses or industrial growth in the past five years.~~
- ~~12. Local involvement and financial support.~~

~~c. Administrative criteria:~~

- ~~1. Plan for activity administration.~~
- ~~2. Previous activity administrative experience.~~
- ~~3. Budget for general administration.~~
- ~~4. Recapture or resale provisions, terms, and enforcement procedures.~~
- ~~5. Prior funding received and performance targets completed.~~

**25.7(2)** ~~25.7(1)~~ As applicable, the review criteria for owner-occupied housing rehabilitation applications shall include the following:



- a. *General criteria.*
    1. (1) Activity objectives.
    2. (2) Area Target area of benefit and reason for selection.
    3. (3) Condition of infrastructure in the activity area served.
    4. (4) Form of assistance to homeowners
    5. (5) Selection criteria for participants.
    6. (6) Method to determine that the property is the homeowner's principal residence.
    7. (7) Compliance Assurance of compliance with the most current version of Iowa's Minimum Housing Rehabilitation Standards.
    8. (8) Assurance of compliance with HUD lead-safe housing regulations, as applicable.
    9. (9) Plans for properties infeasible to rehabilitate.
    10. (10) Activity time line.
  - b. *Need, impact and feasibility criteria.*
    1. (1) Evidence of need for the activity.
    2. (2) Percentage of need to be met through the activity.
    3. (3) Number and percentage of low- and moderate-income persons in the community.
    4. (4) Housing costs, housing supply, condition of housing, vacancy rate of owner-occupied units in the activity area served.
    5. (5) Other recent or current housing improvement activities in the activity area served or community served.
    6. (6) Ongoing comprehensive community development efforts in the activity area served.
    7. (7) New businesses or industries in the past five years in the community, including startup dates.
    8. (8) Local involvement and financial support.
    9. (9) Condition of housing in the target area in the following criteria:
      1. Number of housing units with minor deficiencies.
      2. Number of housing units requiring replacement of one or two of the major components.
      3. Number of housing units requiring both replacement of several major components and structural work.
      4. Number of dilapidated housing units.
  - c. *Administrative criteria.*
    1. (1) Plan for activity administration.
    2. (2) Previous activity management experience.
    3. (3) Budget for general administration.
    4. (4) Budget for technical services assistance.
    4. (5) List of prior CDBG or HOME owner-occupied rehabilitation funding and performance targets completed.
    6. If application is for a continuation of a prior activity, list of performance targets completed.
- 25.7(3)** As applicable, the review criteria for rental housing assistance applications shall include the following:
- a. *General criteria.*
    1. Activity objectives.
    2. Total number of units and number of assisted units.
    3. Activities and cost estimates.
    4. Eligibility criteria for renters of assisted units (income, age, disability, other).
    5. Rationale for activity location.
    6. Availability and condition of infrastructure; availability of utilities.
    7. Zoning compliance.
    8. Environmental issues.
    9. Potential tenant displacement including estimated Uniform Relocation Act (URA) costs.
    10. Accessibility.
    11. Assurance of compliance with HUD lead-safe housing regulations, as applicable.
    12. Activity time line.

- b. Need, impact and feasibility criteria.*
1. Evidence of need for the activity.
  2. Percentage of need to be met through this activity.
  3. Number and percentage of low- and moderate-income persons in the community.
  4. Number of renters and owners.
  5. Housing costs, housing supply, condition of available housing, rental vacancy rate in the community.
  6. If new construction, documentation of need for new construction.
  7. Other recent or current housing improvement activities in the activity area served or community served.
  8. Ongoing comprehensive community development efforts in the activity area served or community served.
  9. New businesses or industries in the past five years in the community.
  10. Local involvement and financial support.
  11. Opposition to the activity and plans to alleviate concerns.
  12. Financial contribution to the activity from other sources (including all underwriting criteria).
  13. Reason for “gap” in activity financing; justification for housing fund request amount.

*c. Administrative criteria.*

1. Plan for activity administration and property management.
2. Previous administrative experience.
3. Plan to ensure long-term affordability.
4. Plan for annual certification of tenant eligibility and compliance with the applicable property standards and any ongoing maintenance to ensure long-term lead-safe housing.
5. Previous CDBG or HOME-funded housing activities and current status.
6. Applicant’s other rental housing activities and addresses.

**25.7(4)** As applicable, the review criteria for tenant-based rental assistance applications shall include the following:

*a. General criteria.*

1. Activity objectives.
2. Rationale for amount of assistance per beneficiary.
3. Selection criteria for participants.
4. Form of assistance.
5. Use of assistance (rental and security deposits, rent assistance).
6. Length of time of assistance.
7. Portability of rental assistance.
8. Rent calculation.

*b. Need, impact and feasibility criteria.*

1. Number and percentage of low- and moderate-income persons in the applicant community.
2. Percentage of income that potential beneficiaries currently pay for rent.
3. Area rental housing costs by unit based on number of bedrooms.
4. Availability of affordable rental housing.
5. Public housing authority waiting list.
6. Documentation of other indicators of need for tenant-based rental assistance (TBRA).
7. Percentage of need to be met through this activity.
8. Alternatives to the proposed activity that were considered.
9. Coordination of this activity with other housing assistance.
10. Other providers of TBRA in the community.
11. Description of efforts to obtain additional funding from other sources for TBRA.
12. Evidence of local involvement and financial support.
13. Opposition to activity and method to address it.
14. Economic indicators in community (unemployment rate, increase/decrease opportunity).
15. Activity time line.

~~16. Overall vacancy rate of rental units in the community.~~

~~c. Administrative criteria.~~

~~1. Plans for administering the activity.~~

~~2. Description of previous administrative experience.~~

~~3. Budget for administration.~~

~~4. Plan for annual certification of tenant eligibility and compliance with Section 8 HQS.~~

~~5. Prior CDBG or HOME housing grants.~~

~~6. Prior activities funded and performance targets completed.~~

**25.7(5) 25.7(2)** IDED staff may conduct site evaluations of proposed activities.

ITEM 10. Amend rule 261—25.8(15) as follows:

**261—25.8(15) Allocation of funds.**

**25.8(1)** IDED may retain a portion of the amount provided for at rule 261—23.4(15) of the state's annual CDBG allocation from HUD and up to 10 percent of the state's annual HOME allocation from HUD for administrative costs associated with program implementation and operation.

**25.8(2)** Not less than 15 percent of the state's annual HOME allocation shall be reserved for eligible housing activities developed, sponsored or owned by CHDOs.

**25.8(3)** IDED reserves the right to reserve a portion of the state's annual HOME allocation for rental housing activities jointly funded with HOME and low-income housing tax credits.

**25.8(4)** IDED will determine the appropriate source of funding, either CDBG or HOME, for each housing fund award based on the availability of funds, the nature of the housing activity and the recipient type.

**25.8(5) 25.8(2)** IDED reserves the right to limit the amount of funds that shall be awarded for any single activity type.

**25.8(6)** Awards shall be limited to no more than \$500,000 for all single-family activities assisting homeowners or homebuyers. Awards shall be limited to no more than \$900,000 for all multifamily rental activities.

**25.8(7) 25.8(3)** Single-family per unit subsidies.

*a.* The maximum per unit subsidy for all single-family activities involving rehabilitation projects is \$37,500. The \$37,500 per unit limit includes all applicable costs including, but not limited to, the hard costs of rehabilitation or the acquisition subsidy or both; home-ownership assistance activities; technical services costs, including lead hazard reduction carrying costs; lead hazard reduction costs; and temporary relocation. All rehabilitation hard costs funded with housing funds are limited to \$24,999. All applicable technical services costs, including any lead hazard reduction carrying costs, are limited to \$4,500 per unit.

*b.* Assistance for single-family activities providing acquisition assistance for newly constructed housing (mortgage buy-down, downpayment or closing costs assistance or both, or combinations thereof) is limited to \$35,000 per unit, inclusive of all costs, including technical services costs.

*c.* Assistance for single-family activities providing development subsidies for newly constructed housing is limited to \$20,000 per unit. Development subsidies may be provided in addition to acquisition assistance activities.

**25.8(8)** Multifamily per unit subsidies. The maximum per unit housing fund subsidy for all multifamily activities is \$60,000 per unit including both newly constructed units and the rehabilitation of existing multifamily units, including conversion activities. The \$60,000 per unit multifamily limit includes all applicable costs including, but not limited to, hard costs of construction or rehabilitation; architectural design or technical services costs; lead hazard reduction or abatement costs; lead hazard reduction or abatement carrying costs; and temporary relocation.

**25.8(9) 25.8(4)** Recipients shall identify general administrative costs in the housing fund application. IDED reserves the right to negotiate the amount of funds provided for general administration, but in no case shall the amount for general administration exceed 10 percent of a total housing fund award. Only local government and nonprofit recipients are eligible for general administrative funds.

**25.8(10) 25.8(5)** IDED reserves the right to negotiate the amount and terms of a housing fund award.

~~25.8(11)~~ IDED reserves the right to make award decisions such that the state maintains the required level of local match to HOME funds.

ITEM 11. Amend rule 261—25.9(15) as follows:

**261—25.9(15) Administration of awards.** Applications selected to receive housing fund awards shall be notified by letter from the IDED director.

~~25.9(1)~~ A preaudit survey may be required for all for-profit and nonprofit direct recipients for grants that exceed \$150,000.

~~25.9(2)~~ **25.9(1)** A contract shall be executed between the recipient and IDED. These rules, the approved housing fund application, the housing fund management guide and all applicable federal and state laws and regulations shall be part of the contract.

*a.* The recipient shall execute and return the contract to IDED within 45 days of transmittal of the final contract from IDED. Failure to do so may be cause for IDED to terminate the award.

*b.* Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Contracts may be conditioned upon the timely completion of these requirements.

*c.* Awards shall be conditioned upon commitment of other sources of funds ~~necessary to complete the housing activity included in the application budget.~~

*d.* Release of funds shall be conditioned upon IDED's receipt of an administrative plan for the funded activity.

*e.* Release of funds shall be conditioned upon IDED's receipt and approval of documentation of environmental clearance.

~~25.9(3)~~ **25.9(2)** Local administrative and technical services contracts.

*a.* Recipients awarded funds for general administration that employ the services of a third-party administrator to perform all or part of the general administrative functions for the recipient shall enter into a contractual agreement for the general administrative functions to be performed.

*b.* Recipients awarded funds for activities requiring technical services (e.g., inspections, work write-ups, cost estimates, construction supervision, lead hazard reduction need determination and oversight, lead hazard reduction carrying costs, and temporary relocation coordination) that employ a third-party entity to perform all or part of the technical services shall enter into a contractual agreement for the technical services to be performed.

*c.* Recipients that employ a third party to perform all or part of the general administration for the recipient and that also employ a third party to perform all or part of the technical services for the recipient shall conduct separate procurement transactions and shall enter into separate contractual agreements for each: one contract for general administration and one contract for technical services. Separate contracts are required even if both functions are performed by the same third-party entity.

~~25.9(4)~~ **25.9(3)** Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by IDED. Individual requests for funds shall be made in whole dollar amounts equal to or greater than \$500 per request, except for the final draw of funds.

~~25.9(5)~~ **25.9(4)** Record keeping and retention.

*a.* CDBG-funded projects. For CDBG-funded projects, the recipient shall retain all financial records, supporting documents and all other records pertinent to the funded activity for five years after the state of Iowa has closed out the corresponding program year with HUD.

~~*b.* HOME-funded projects. For HOME-funded projects, 24 CFR 92.508 provides the record retention requirements. All records pertaining to each fiscal year of HOME funds must be retained for the most recent five-year period, except as provided in the following:~~

~~(1) For rental housing projects, records may be retained for five years after the project completion date, except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates;~~

~~(2) For home ownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates;~~

~~(3) For tenant based rental assistance projects, records must be retained for five years after the period of rental assistance terminates;~~

~~(4) Written agreements must be retained for five years after the agreement terminates;~~

~~(5) For records covering displacements and acquisitions, see 24 CFR 92.508;~~

~~(6) For records relating to litigation, see 24 CFR 92.508.~~

~~e. b.~~ Representatives of IDED, HUD, the Inspector General, the General Accounting Office and the state auditor's office shall have access to all records belonging to or in use by recipients and subrecipients pertaining to a housing fund award.

~~25.9(6)~~ **25.9(5)** Performance reports and reviews. Recipients shall submit performance reports to IDED in the manner and on forms prescribed by IDED. Reports shall assess the use of funds and progress of activities. IDED may perform reviews or field inspections necessary to ensure recipient performance.

~~25.9(7)~~ **25.9(6)** Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alterations of the funded activities affecting the scope, location, objectives or scale of the approved activity. Amendments shall be requested in writing by the CEO of the recipient and are not considered valid until approved in writing by IDED following the procedure specified in the contract between the recipient and IDED.

~~25.9(8)~~ **25.9(7)** Contract closeout. Upon the contract expiration date or work completion date, as applicable, IDED shall initiate closeout procedures. Recipients shall comply with applicable audit requirements described in the housing fund application and management guide.

~~25.9(9)~~ **25.9(8)** Compliance with federal, state and local laws and regulations. Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program and with applicable federal, state and local regulations.

~~25.9(10)~~ **25.9(9)** Remedies for noncompliance. At any time, IDED may, for cause, find that a recipient is not in compliance with the requirements of this program. At IDED's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to IDED. Reasons for a finding of noncompliance include the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded activities in a timely manner, the recipient's failure to comply with applicable federal, state or local rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved activities in a timely manner.

~~25.9(11)~~ **25.9(10)** Appeals process for findings of noncompliance. Appeals will be entertained in instances where it is alleged that IDED staff participated in a decision which was unreasonable, arbitrary, or capricious or otherwise beyond the authority delegated to IDED. Appeals should be addressed to the division administrator of the division of community ~~and rural~~ development. Appeals shall be in writing and submitted to IDED within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. The IDEED director will make the final decision on all appeals.